

Notice of Allowability

Application No.

10/823,017

Examiner

Navin Natnithithadha

Applicant(s)

FULLER, MILTON A.

Art Unit

3735

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address--

All claims being allowable, PROSECUTION ON THE MERITS IS (OR REMAINS) CLOSED in this application. If not included herewith (or previously mailed), a Notice of Allowance (PTOL-85) or other appropriate communication will be mailed in due course. **THIS NOTICE OF ALLOWABILITY IS NOT A GRANT OF PATENT RIGHTS.** This application is subject to withdrawal from issue at the initiative of the Office or upon petition by the applicant. See 37 CFR 1.313 and MPEP 1308.

1. ☒ This communication is responsive to 18 December 2006.
2. ☒ The allowed claim(s) is/are 1-20.
3. ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
 - a) ☐ All b) ☐ Some* c) ☐ None of the:
 1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this national stage application from the International Bureau (PCT Rule 17.2(a)).

* Certified copies not received: _____.

Applicant has THREE MONTHS FROM THE "MAILING DATE" of this communication to file a reply complying with the requirements noted below. Failure to timely comply will result in ABANDONMENT of this application.
THIS THREE-MONTH PERIOD IS NOT EXTENDABLE.

4. ☐ A SUBSTITUTE OATH OR DECLARATION must be submitted. Note the attached EXAMINER'S AMENDMENT or NOTICE OF INFORMAL PATENT APPLICATION (PTO-152) which gives reason(s) why the oath or declaration is deficient.
5. ☐ CORRECTED DRAWINGS (as "replacement sheets") must be submitted.
 - (a) ☐ including changes required by the Notice of Draftsperson's Patent Drawing Review (PTO-948) attached
 - 1) ☐ hereto or 2) ☐ to Paper No./Mail Date _____.
 - (b) ☐ including changes required by the attached Examiner's Amendment / Comment or in the Office action of Paper No./Mail Date _____.

Identifying indicia such as the application number (see 37 CFR 1.84(c)) should be written on the drawings in the front (not the back) of each sheet. Replacement sheet(s) should be labeled as such in the header according to 37 CFR 1.121(d).
6. ☐ DEPOSIT OF and/or INFORMATION about the deposit of BIOLOGICAL MATERIAL must be submitted. Note the attached Examiner's comment regarding REQUIREMENT FOR THE DEPOSIT OF BIOLOGICAL MATERIAL.

Attachment(s)

- | | |
|--|---|
| 1. <input type="checkbox"/> Notice of References Cited (PTO-892) | 5. <input type="checkbox"/> Notice of Informal Patent Application |
| 2. <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 6. <input type="checkbox"/> Interview Summary (PTO-413),
Paper No./Mail Date _____ |
| 3. <input type="checkbox"/> Information Disclosure Statements (PTO/SB/08),
Paper No./Mail Date _____ | 7. <input type="checkbox"/> Examiner's Amendment/Comment |
| 4. <input type="checkbox"/> Examiner's Comment Regarding Requirement for Deposit
of Biological Material | 8. <input checked="" type="checkbox"/> Examiner's Statement of Reasons for Allowance |
| | 9. <input type="checkbox"/> Other _____ |

REASONS FOR ALLOWANCE

1. Claims 1-20 have been amended. Claims 1-20 are pending.
2. Applicant's arguments, see Remarks, pages 2-3, filed 18 December 2006, with respect to amended claims 1-20 have been fully considered and are persuasive. The 35 U.S.C. 102(b) rejections of claims 1-20 have been withdrawn.
3. Claims 1-20 are allowed.
4. The following is an examiner's statement of reasons for allowance:

Claims 1-20: The prior art of record does not teach an apparatus (claim 1) for determining a characteristic of a sample, e.g. an analyte concentration, a biological molecule, glucose, a protein, hemoglobin A1c, a virus, an enzyme, or cholesterol, including the combination of: first and second nodes positioned at spaced apart locations in a sample receiver and operative contact to a sample; a source that generates an RF signal having a selected frequency spectrum that is coupled to the pair of nodes; a pair of permanent magnets; and an analyzer coupled to the pair of nodes that analyzes the RF signal transmitted through the sample and detected by the second node to determine the characteristic of the sample. In addition, the prior art of record does not teach the corresponding method (claim 17) for detecting a characteristic of a sample, including the steps of: providing the above apparatus; and analyzing a change in the RF signal transmitted by the first node through the sample to the second node to determine the characteristic of the sample.

The amended claims are distinguishable from Rapoport et al, US 4,875,786 A ("Rapoport") because Rapoport does not analyze the RF signal to determine the

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characteristic of a sample. Rapoport teaches activation of an RF generator 46, which excites the surface coil 38 for applying a second field, raising the energy state and realigning the nuclei in a sample (see col. 5, ll. 30-34). Then, the RF generator 46 is deactivated, thereby permitting the nuclei to relax. Coil 38 detects the energy release and outputs a signal that is analyzed by microprocessor 44 (see col. 5, ll. 35-42). Thus, the energy release is detected and analyzed by Rapoport, and not the RF signal.

Any comments considered necessary by applicant must be submitted no later than the payment of the issue fee and, to avoid processing delays, should preferably accompany the issue fee. Such submissions should be clearly labeled "Comments on Statement of Reasons for Allowance."

5. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Navin Natnithithadha whose telephone number is (571) 272-4732. The examiner can normally be reached on Monday-Friday, 8:00am-4:00pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Charles Marmor, II can be reached on (571) 272-4730. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

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02/13/2007

Charles A. Marmor, II
Supervisory Patent Examiner
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Robert S. Nass
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